

# **MERRIAM MOUNTAINS SPECIFIC PLAN**



## **APPENDIX V**

### **HARDLINE POINTS OF AGREEMENT**

GPA 04-06; SP 04-006; R04-013; VTM5381; S04-035, S04-036, S04-037,  
S04-038; Log No. 04-08-028; SCH No. 2004091166

*for the*

### **DRAFT ENVIRONMENTAL IMPACT REPORT**

**August 2007**

# **MERRIAM MOUNTAINS SPECIFIC PLAN**

## **HARDLINE POINTS OF AGREEMENT**

**September 2005**



Life | Land | Community

**Points of Agreement of September 20, 2005  
For the Merriam Mountains Project (SP04-006, FWS/CSFG-SDG-4514.1)**

A meeting was held on September 20, 2005 to discuss and agree to basic project and preserve designs and MSCP hardlines for the Merriam Mountains project ("Merriam" or "Project"), including the Specific Plan and any approvals required to implement the Specific Plan. The applicant, NNP-Stonegate Merriam, LLC ("Stonegate"), presented a draft alternative referred to as the September 20, 2005 "All South" development plan ("All South Plan"), for review by the U.S. Fish and Wildlife Service, Department of Fish and Game (collectively, "Wildlife Agencies"), and County of San Diego staff ("County Staff") and to facilitate discussion and concurrence on the following Points of Agreement.

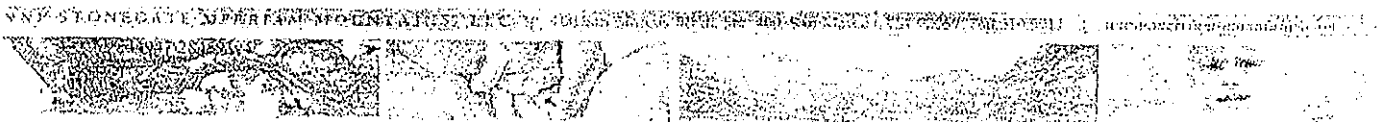
**Summary of Fundamental Points of Agreement**

- A. County Staff and the Wildlife Agencies concur with the hardlines presented in the All South Plan, including location of a portion of the Merriam trail system in the preserve area to be described in the Merriam habitat management plan;
- B. The Wildlife Agencies agree to consider the Captains' Associates parcel as adequate MSCP mitigation for CSS impacts resulting from the All South Plan;
- C. County Staff and the Wildlife Agencies agree to cooperate in processing an HLP, if necessary, that will not require further avoidance of CSS habitat impacts currently shown on the All South Plan; and
- D. County Staff agrees to address the County RPO in a way that allows the All South Plan to proceed as proposed in the interest of creating an ecologically superior plan.

Specifically, the Wildlife Agencies and County Staff agree to the following points:

**MSCP/4(d) Compliance**

- 1. County Staff and the Wildlife Agencies concur with the All South Plan as the agreed-upon hardline for Project and agree to proceed with the MSCP analysis using the hardline shown on the All South Plan;
- 2. County Staff and the Wildlife Agencies concur that a portion of the Merriam trail system may be located within designated biological open space (the MSCP preserve) and is a compatible use within the MSCP. The trail system will be designed to County joint use standards and will be presented to County Staff and the Wildlife Agencies for review;
- 3. Impacts to California gnatcatchers on the southeastern portion of the Project will be fully mitigated by purchase of the offsite Captains' Associates property as referenced in the Wildlife Agencies' July 13, 2005 letter; and



4. Should the Project be approved prior to issuance of MSCP permits, the County and the Wildlife Agencies will process an HLP to be included as a discretionary action in the Merriam EIR (with HLP findings included in the EIR). While it is understood that the Service cannot provide pre-decisional permit assurances as it pertains to 4(d) or Section 7 processes, the Wildlife Agencies will take into consideration that the Captains' Associates property satisfies mitigation requirements for impacts to CSS under the MSCP. The Wildlife Agencies further agree not to require further avoidance of CSS habitat other than that shown in the All South Plan.

#### Mitigation for Impacts to Biological Resources

1. MSCP/4(d) compliance will constitute full mitigation for direct, indirect and cumulative impacts with respect to sensitive habitats, sensitive species, and preserve design; and
2. The Wildlife Agencies will acknowledge in writing their acceptance of the All South Plan preserve design as full mitigation for all biological impacts and will not propose or recommend additional avoidance or minimization of impacts to wetland (jurisdictional) or other resources when future wetland permits (CDFG Streambed Alteration Agreement, ACOE 404, RWQCB 401) are submitted and processed for the Project. The Department of Fish and Game agrees specifically not to require further avoidance measures during processing of a 1602 Streambed Alteration Agreement for the Project.

#### RPO Compliance

1. County Staff and the Wildlife Agencies agree that the All South Plan is not feasible to implement if the County RPO is strictly applied to areas outside of the designated biological open space (the MSCP preserve). Amendment of the RPO or allowance of an exemption for the Project is necessary to implement the All South Plan.
2. County Staff will support amendment of the RPO to allow impacts to RPO jurisdictional features (sensitive habitat, wetlands, slopes, cultural resources, floodplains) when such impacts allow a design that provides ecological benefits superior to a design that strictly complies with the RPO.
3. County Staff will support findings that impacts to RPO jurisdictional features resulting from the All South Plan are necessary to enhance the overall conservation values of the Project and to provide superior ecological benefits;
4. County Staff will submit the proposed amendment to the RPO for formal review and approval as soon as possible after execution of this Agreement.

#### GP 2020

1. County Staff concur that the All South Plan, including dwelling units, density, and proposed commercial uses, is consistent with GP 2020 and will be incorporated into the Staff Alternative of the GP 2020 Working Copy;
2. Project processing will not be delayed during preparation of GP 2020; and

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3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

#### Wildlife Agencies' Requests

1. A fire management plan for the Project, including amount and location of fire management buffers, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

#### Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: \_\_\_\_\_

Date: \_\_\_\_\_

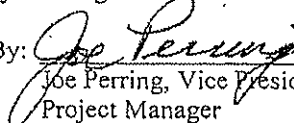
U. S. FISH & WILDLIFE SERVICE

By: \_\_\_\_\_

Date: \_\_\_\_\_

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By:  \_\_\_\_\_  
Joe Perring, Vice President  
Project Manager

Date: \_\_\_\_\_

DEPARTMENT OF FISH & GAME

By: \_\_\_\_\_

Date: \_\_\_\_\_

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2. Project processing will not be delayed during preparation of GP 2020; and
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Wildlife Agencies' Requests

1. All fire management buffers for the Project will be located outside the biological open space. The fire management plan, including amount and location of fire management buffers within the development area, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

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Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tora Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: \_\_\_\_\_

Date: \_\_\_\_\_

U. S. FISH & WILDLIFE SERVICE

By: June Collins

Date: October 12, 2005

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By: Joe Perring  
Joe Perring, Vice President  
Project Manager

Date: October 10, 2005

DEPARTMENT OF FISH & GAME

By: \_\_\_\_\_

Date: \_\_\_\_\_

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#### Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

#### Concurrence Initials

COUNTY OF SAN DIEGO

By: \_\_\_\_\_

Date: \_\_\_\_\_

U. S. FISH & WILDLIFE SERVICE

By: \_\_\_\_\_

Date: \_\_\_\_\_

NNP-STONEGATE MERRIAM, LLC  
By: Stonegate Merriam Mountains, LLC

By: Joe Perring  
Joe Perring, Vice President  
Project Manager

Date: October 12, 2005

DEPARTMENT OF FISH & GAME

By: [Signature]

Date: \_\_\_\_\_

**Joe Perring**

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**From:** Michael McCollum [mccollum@mccollum.com]  
**Sent:** Wednesday, October 12, 2005 12:34 PM  
**To:** Larry Eng  
**Cc:** Joe Perring  
**Subject:** Merriam Points of Agreement

Larry:

To further clarify the language in the Points of Agreement of September 20, 2005, on page 2, under the heading "Mitigation for Impacts to Biological Resources", bullet 2:

It is the intent of this language that any mitigation measures associated with the 1602 agreement process, not result in moving roads, units, or facilities, or any other avoidance or minimization measure that results in the need to redesign the project. We acknowledge that normal mitigation measures will be required to achieve no net loss of Department jurisdictional wetland resources resulting from any project impacts, including, as appropriate, recognition of preserved wetlands within the biological open space.

We prefer not to make changes to the Points of Agreement, since the Service and my client have already signed it, and we believe the existing language speaks only to the avoidance issue, not specific mitigation for impacts; however, this message will make it clear of the agreement's intent.

I would appreciate it if you would fax back to me today the signature page with your signature, and send your original signature to me via U.S. Mail at your convenience.

Thank you for your assistance in concluding this process.

Mike

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Sacramento, CA 95829-6574  
(916) 688-2040 \* Fax (916) 688-7436  
[www.mccollum.com](http://www.mccollum.com)

TRI Commercial Real Estate Services  
[www.mccollum.com/tri](http://www.mccollum.com/tri)

GARY L. PRYOR  
DIRECTOR



# County of San Diego

## DEPARTMENT OF PLANNING AND LAND USE

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EL CAJON OFFICE  
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EL CAJON, CA 92020-3912  
(619) 441-4030

November 1, 2005

Mr. Joseph Perring  
27071 Cabot Road, Suite 106  
Laguna Hills, California 92653

Dear Mr. Perring:

This letter is in regards to your request to establish a "hard-line" area within the North County Multiple Species Conservation Plan (MSCP) for the Merriam Project.

For MSCP purposes, the Department of Planning and Land Use supports your current proposal to eliminate the northern development node. This represents a significant step forward in implementing the North County Plan. Furthermore, DPLU will continue to work cooperatively and aggressively with the wildlife agencies to address any remaining issues in the southern portions of the site and complete the "hard-line" approval.

We look forward to continuing to work with you and your team on this project.

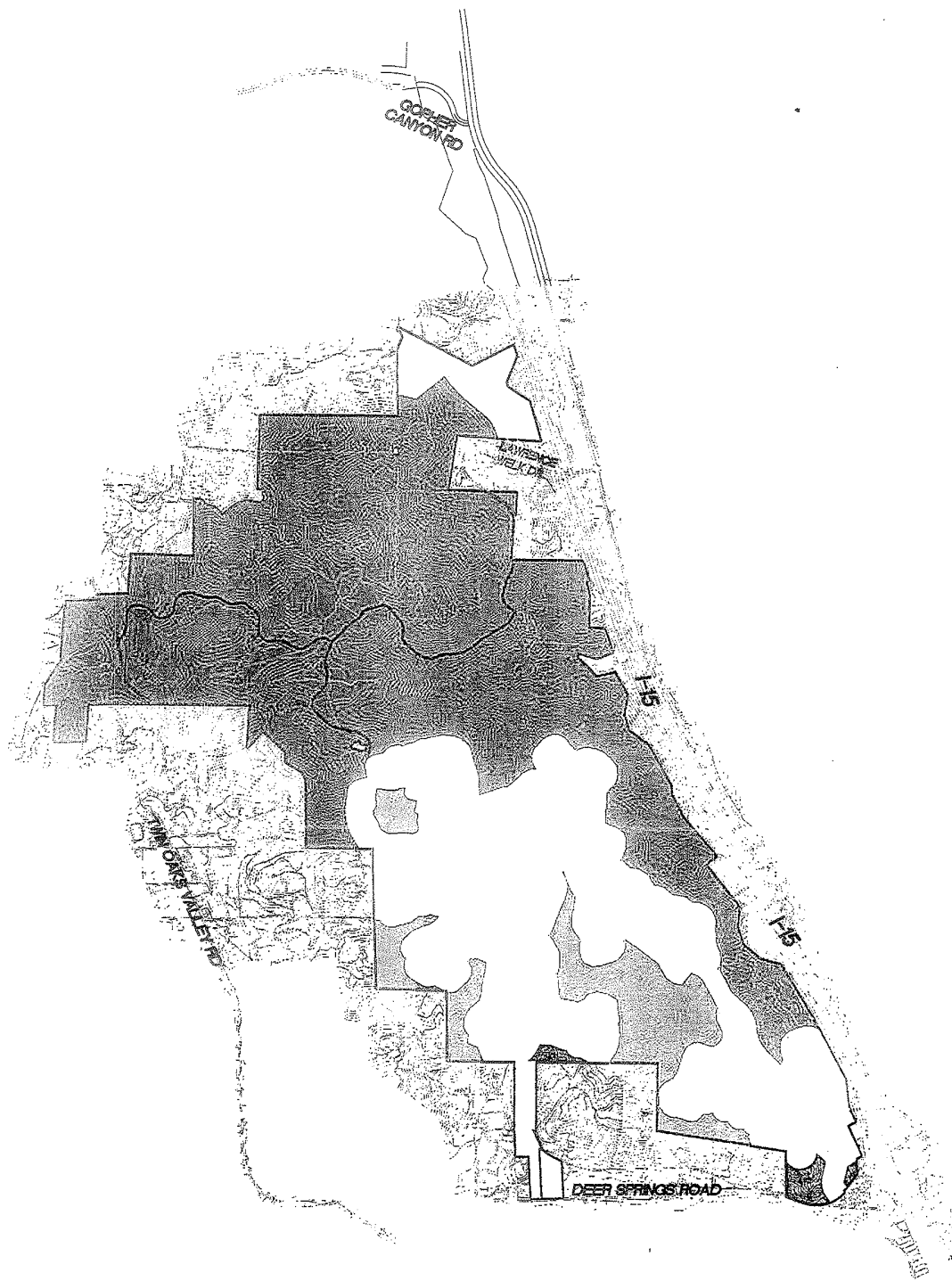
Sincerely,

A handwritten signature in black ink, appearing to read "Ivan Holler".

IVAN HOLLER, Deputy Director  
Department of Planning and Land Use

IH:clc

cc: File



- BIOLOGICAL OPEN SPACE - 1305 AC
- NATURAL PARK - 14 AC
- OTHER OPEN SPACE - 178 AC



**DRAFT ALL-SOUTH ALTERNATIVE  
PRELIMINARY HARDLINE EXHIBIT  
MERRIAM MOUNTAINS**

**SEPT 20, 2005**